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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

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RIN 0648-XE900

Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery;

2017-2019 Atlantic Deep-Sea Red Crab Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed specifications; request for comments.

SUMMARY: We are proposing specifications for the 2017 Atlantic deep-sea red crab fishery, including an annual catch limit and total allowable landings limit. We are also proposing projected quotas for 2018-2019. This action is necessary to establish allowable red crab harvest levels that will prevent overfishing and allow harvesting of optimum yield. The proposed action is intended to establish the allowable 2017 harvest levels, consistent with the Atlantic Deep-Sea Red Crab Fishery Management Plan.

DATES: Comments must be received on or before *[insert date 30 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2016-0132, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal

e-Rulemaking portal. Go to

www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0132, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to John Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publically accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Copies of the specifications document, including the Regulatory Flexibility Act Analysis and other supporting documents for the specifications, are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The specifications document is also accessible via the Internet at: <https://www.greateratlantic.fisheries.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT: Allison Murphy, Fishery Policy

Analyst, (978) 281-9122.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic deep-sea red crab fishery is managed by the New England Fishery Management Council. The Atlantic Deep-Sea Red Crab Fishery Management Plan (FMP) includes a specification process that requires the Council to recommend, on a triennial basis, an acceptable biological catch (ABC), an annual catch limit (ACL), and total allowable landings (TAL). The Council's Scientific and Statistical Committee (SSC) provides a recommendation to the Council for these catch limits. The Council makes a recommendation to NMFS that cannot exceed the recommendation of its SSC.

The Council's recommendations must include supporting documentation concerning the environmental, economic, and social impacts of the recommendations. We are responsible for reviewing these recommendations to ensure that they achieve the FMP objectives and are consistent with all applicable laws, and may modify them if they do not. Following this review, we then publish proposed specifications in the **Federal Register**. After considering public comment, we will publish final specifications in the **Federal Register**.

The FMP was implemented in 2002 and was originally managed under a target total allowable catch (TAC) and days-at-sea (DAS) system that allocated DAS equally across the small fleet of limited access permitted vessels. Amendment 3 to the FMP removed the trip limit restriction, and replaced the target TAC and DAS allocation with a catch limit structure consistent with the ACL and accountability measure requirements of the

Magnuson-Stevens Fishery Conservation and Management Act. Under Amendment 3 (76 FR 60379; September 29, 2011), the 2011-2013 red crab specifications were set with an ABC equal to the long-term average landings of the directed red crab fishery (1,775 metric tons (mt)). These specifications were continued for fishing years 2014-2016 (79 FR 24356; April 30, 2014).

Proposed Specifications

The biological and management reference points currently in the FMP are used to determine whether overfishing is occurring or if the stock is overfished. However, these reference points for red crab do not currently meet Magnuson-Stevens Act National Standard 1 criteria. As a result, there is insufficient information on the species to establish the maximum sustainable yield (MSY), optimum yield (OY), or overfishing limit (OFL). ABC is defined in terms of landings instead of total catch because there is insufficient information to estimate dead discards of red crab.

The Council's recommendation for the 2017-2019 red crab specifications are based on the results of the most recent peer-reviewed assessment of the red crab fishery carried out by the Data Poor Stocks Working Group in 2009 and the recommendations of the Council's SSC. The recommended specifications include a status quo TAL for all three years. While an OFL has not been determined for the stock, the Council and its SSC believe continuing the current TAL will not result in overfishing and adequately accounts for scientific uncertainty.

Recent landings, landing per unit of effort, port samples, discard information, and economic data suggest there has been no change in the size of the red crab stock since

Amendment 3 was implemented in 2011. On August 10, 2016, the SSC recommended the status quo ABC for fishing years 2017-2019 of 1,775 mt for the directed fishery. The Council approved the specifications on September 21, 2016, summarized in Table 1. We are proposing the Council-recommended specifications for fishing year 2017. By providing projected quotas for 2018 and 2019, we hope to assist fishery participants in planning ahead.

Table 1. Council-recommended 2017-2019 Red Crab Specifications.

	mt	Million lb
MSY	undetermined	
OFL	undetermined	
OY	undetermined	
ABC	1,775	3.91
ACL	1,775	3.91
TAL	1,775	3.91

At the end of each fishing year, we evaluate catch information and determine if the quota has been exceeded. If a quota is exceeded, the regulations at 50 CFR 262(b) require a pound-for-pound reduction in a subsequent fishing year, through notification consistent with the Administrative Procedure Act. We would publish a notice in the **Federal Register** of any revisions to these proposed specifications if an overage occurs. We expect, based on the performance of the red crab fishery over time, that such adjustments would be unlikely. However, we will provide notice of the 2018 and 2019 quotas prior to the start of each respective fishing year.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has

determined that this proposed rule is consistent with the Atlantic Deep-Sea Red Crab FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

These proposed specifications are exempt from review under Executive Order 12866.

The Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The Council prepared an analysis of the potential economic impacts of this action, which is included in the Council's document for this action (see **ADDRESSES** to obtain a copy of the supplemental information report) and supplemented by information contained in the preamble of this proposed rule. For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry in commercial fishing (see 50 CFR 200.0). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. Using this definition, there are two distinct ownership entities and four fishing vessels based on available permit data that are directly regulated by this action. As there are only two business entities, the degree of ownership is not known. A review of revenue data from 2013-2015 indicates that the total value of landings of red crab and other species over the last three years averaged \$3.69 million, so it

is safe to assume that all business entities in the harvesting sector can be categorized as small businesses for purpose of the RFA.

There is no reason to believe small entities would be substantially affected by the proposed action. The proposed action would affect all business entities and the four vessels that participate in the directed red crab fishery, but it is not expected to have any impact on the gross or average revenues for the fishery because it does not change the quota. In addition, this quota is substantially higher than landings in recent years (fishing years 2013 through 2015 landings averaged 2.692 million lb). As a result, the proposed action is not expected to constrain landings markets for red crab substantially and is not expected to have a significant economic impact on a substantial number of small entities.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 28, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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